IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

JUDGMENT

Smt. Beena Sharma **Vs.** Mahesh Chand

D.B. Civil Special Appeal No. 237/2006
in
S.B. Civil Misc. Appeal No. 176/2003

Date of order :: July 17, 2007

PRESENT
HON'BLE MR.JUSTICE R.C. GANDHI
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Santosh Kaushik for the appellant

(ORAL, PER HON'BLE MR. GANDHI, J)

1. This special appeal has been preferred under Section 18 of the Rajasthan High Court Ordinance, 1949 against the order dated 12.10.2006 and 15.11.2006 passed by the learned Single Judge in S.B. Civil Misc. Appeal No. 176/2003.

2. A decree of divorce dated 01.11.2002 was passed by the trial court in favour of the appellant-wife, which was assailed before the learned Single Judge. The learned Single Judge upheld the

judgment and decree of the trial court. While dictating the order, learned counsel for the appellant (respondent herein) made a concession before the learned Single Judge that the observations so far as contained in the course of order of the trial court to the extent of second marriage by the appellant-husband may be directed as deleted. The counsel for the respondent-wife (appellant herein) stated before the learned Single Judge that he has no objection therefor. Accordingly, the observations regarding second marriage were directed to be deleted vide order passed by the learned Single Judge.

3. Learned counsel for the appellant-wife filed an application before the learned Single Judge numbered as S.B. Civil Misc. Application No. 172/2006 stating therein that her counsel has not made such a concession at the bar. Learned Single Judge disposed of the application vide order dated 15.11.2006 observing that such a concession was made by the party and once having made such concession, it cannot be permitted to retract and dismissed the application.

4. Learned counsel for the appellant has reiterated that such a concession was not made by him. Since the learned Single Judge has recorded in the course of order that concession was made by the learned counsel, therefore, we do not find any substance in

the plea of the learned counsel for the appellant that he has not made the concession. It is settled principle of law that the courts have to go by the records of the courts which indicates that such a concession was made by the learned counsel on behalf of his client.

5. Consequently, we do not find any merit in this appeal, which is accordingly dismissed.

(Dr.VINEET KOTHARI),J. **(R.C. GANDHI),J.**

Pramod